

The Lord Mayor of L O N D O N ' S V I N D I C A T I O N .

Being an Answer to a Pamphlet intituled, *A brief Collection out of the Records of the City, touching the Election of Sheriffs for the City of London, and County of Middlesex, &c.*



AD not that *Pamphlet* termed it self to be put forth by Order, it was not possible to have believed, that ever a Lord Mayor and Court of Aldermen of *London* should have understood themselves and the Law no better, than to have imposed upon the City such incoherent Things: and that, which highly argues it so is, that in one Part of the Pamphlet they who are said to be the Magistrates, and that ought by their Places to punish Offenders and Breakers of the Law, do most manifestly break it themselves, in calling the late Times to remembrance, by terming it a Rebellion, which the Act of Oblivion never did: (*Vis. 12. Car. 2.*) but on the contrary commands all the Actions of the late Times to be buried in utter Oblivion, with Penalties for any that presume to breake it, by reviving the Memory of it: And tho such Expressions would have well enough besittted *Roger Lestrage*, or Protestant *Nat. Thomson*, yet the Gravity of that Court for such Acts, may, as well as others, receive a Blemish, if not a Punishment, from that Law they have so little regarded. And therefore we must in Charity judge, that neither his Lordship nor the Court had any Hand in such a Thing, but take it to be, as it seems, only a Brat of the Scriblers Brain. As for the Town-Clark, whose Name is to it, we must also believe better Things of him, unless he were commanded by his Superiours to do it: however we shall not further dispute about it, but come to the Matter.

First, the Pamphlet saith in the first Page, *That the Charters are to the Citizens to chuse their Sheriffs*: (very well,) if so, what need we go any further?

further? doth the Lord Mayor or Court of Aldermen pretend any Power but what the Charters give them? or can they or any other by a By-Law abridge the Charters that give them Life and Motion? Certainly it were the most preposterous Thing in the World to imagine that the Creature should destroy the Creator. Now if it should be granted, as this Pamphlet would have it, that the particular By-Laws or new Customs should alter the fundamental Charter, that gives them Life and Being, and which is time out of mind; then the Creature is above the Creator. And yet the Pamphlet goes on, and tells us, That tho it be so by the Charters, yet by usage and particular By-Laws the Choice of Sheriffs have been restrained: (Very well!) then By Laws are above the Charter, which must necessarily follow. But that this is a false Presumption, will appear two ways in the Charters granted, and which are confirmed by Act of Parliament, and so become Part of the Law of the Land. In that of *Richard the second* it is provided, that, notwithstanding any Misusage or Abusage, all their ancient Rights shall be continued to them: if so, then it follows, that altho it should be admitted, that by By-Laws and new Customs of 40, 50, or 100 Years standing, or more, being Misusage or Abusage, contrary to the Charter, can never hurt or prejudice the ancient Rights, when the City shall claim them, as they have done several Times, as the Pamphleteer in the next place shews himself, in the case of Chusing Sheriffs. But in the next place, that no by Law made by the Power of the Charter can overthrow the Charter it self, appears by the Charter that gives Power to make By-Laws: but all By-Laws saith the Charter, repugnant to, or which tend to abridge the Charter, that gives you Power, is *ipso facto* null and void.

If so, then the chusing of Sheriffs, or either of them, any other way than as the Charter directs, tho there be a By-law for the same, is utterly inconsistent with the Charter, and the Law of the Land: for the Charter hath prescribed, that the Citizens shall choose from amongst themselves; and not that the Lord Mayor should choose for them. And for that indeed the Barons of London, which were the Freemen, chose Sheriffs by the Name of *Portrieves*, long before a Mayor was in London, as may be seen by the ancient Records.

But that we may answer the whole, or what is worthy to be answer'd, we shall take notice of what follows.

The Pamphlet tells us, *So it had been used for the Lord Mayor to nominate or choose a Person, &c. from the 21st Year of Edward the third, to 1641, &c. except 4 or 5 Years between the Time of Edward the third and*

1641. So then, by their own shewing, it was not always taken for granted: it seems neither 4. or 5 Years, by their own Confession, the Common Hall would not confirm the Mayor's Nomination, before the Year 41. (now so much harped at.) Well, but what follows: From 41, then the City would not confirm, but chose their own Sheriffs in Common Hall till 1663. This is still by their own shewing: From whence I observe, altho the Pamphleteer would turn the shame of the altering it at 1641, to be occasioned by the Rebellion, as he calls it, but that is the greatest Fallacy in the World, for in 1641, most of the Aldermen of London then took Part with the Parliament against the King; and the then Mayor was, and many that followed afterwards, were such Enemies to the King's Party at that Time, that they continuing to drink to Persons to be Sheriffs, according to their Way, the Citizens then, in opposition to the Parliaments Party, renewed their antient Rights, and would not any more confirm the Mayor's Nomination; and so it continued 3 Years after his Majestie's Restauration, *by their own shewing 166.* And all along to this Day the Pamphleteer, nor any one for him, can ever shew when ever it was stood upon by the Citizens, that ever any Man held Sheriff that was not chosen by the Citizens, if they opposed him: then the Pamphleteer tells us from 1663, it continued, that the Citizens confirmed to this Time, except in the Year 1674 to 1680. So then should it be admitted that the former was done by the Rebels: yet there, from 1660 to 1674. and from thence to 1680. here hath been no Rebellion, and yet by their own shewing the Citizens in this Time would not confirm. Pag. 2.

But in the same second Page the Pamphlet tells us the Reason: *Because the Lord Mayor hath nominated a Person to be one of the Sheriffs, do the Lord Mayor and Aldermen withdraw, &c. leaving the Commons to confirm him, and elect the other, &c. as they do upon the Choice of the Lord Mayor, &c. but at other Halls they do not withdraw, as at the Choice of Parliament-Men, &c.* Pag. 2.

To which I answer: first, If the Lord Mayor's Nomination be good, what need he either withdraw, or he care whether the City confirm him or not; but that it is not good, appears, because in all Times and Ages the Precepts sent forth by the Mayors run to chuse Sheriffs, and not a Sheriff, or to confirm, until this Year of Experiments: but what he hath to answer, that did commit that bold Attempt and Rape upon the City Customs and Priviledge, contrary to his Oath, time may discover: And I doubt not but the Citizens will in due Time resent it. But let that alone. As to the other Part of confirming, after the Ma-

yor is withdrawn, is a meer Fiction, for the Mayor ought not to be in the Common Hall whilst any Officer is chusing but Parliament-Men, and that is by Virtue as the Mayor and Aldermen are Freeholders of the County, as a Nobleman may give his Voice as a Freeholder for a Commoner to be chosen a Member of Parliament: but otherwise at no Election or Confirmation of City-Officers in Common Hall are the Mayor or Aldermen by; nor can there be any Reason for it, because the Mayor and Aldermen are of the Upper-House, and ought no more to be with the Commoners in the Choice of their Officers, than the Commoners can do in the Choice of the Officers of their Court.

And as for what the Pamphlet says about the Records of the City in Ancient Times, it was never known more or otherwise either in ancient Times or late Days, by any of the Records, that ever the Mayor's pitching upon a Sheriff for the Year ensuing, was any more than a Recommendation to the Hall of a Person fit: and the beginning of Drinking and Recommendation of the Mayor seems to be only upon this Consideration, that such Persons so nominated, might not pretend an Excuse of being out of Town, and keeping out of the Way, against the Day of Election came; which appears by the Records of the City, (*made in the Time of Edward the third*) which say, That if any absented themselves to avoid the Office at the Day of Election, they should forfeit 100 l. and the Ceremony of Drinking arose from this, that sited Persons being pitched upon, they might not have an Excuse to avoid the Burthen, having notice beforehand: but never was any one put upon the Citizens whether they would or not. And one other Reason, why this Drinking and Recommending was encouraged, because the City wanted Money, and so they went a birding every Year, and got Fines of several Men that were pitched upon, rather than such, so marked out, would hazard their being chose at the Common Hall: for heretofore we used to chuse Sheriffs out of Spight, because they were rich, and not for love, and because of their Abilities to serve, and this Thing we would be at still.

In the next place the Pamphlet tells us very truly I believe, that in the fourth of Henry the fifth, an Act of common Council was made, that the Sheriffs ought to be freely and indifferently chosen by the more sufficient Citizens summoned to those Elections. (Very well.) Then I perceive what was said before of continuing the Custom of Nomination by the Mayor from Edward the third to 1641, is a greater Mistake than they that put out the Paper were aware of: for it appears by this Act at this time, and that by their own By-Law, tho it was insignificant to support the Charter,

Charter, for the Charter was able to stand alone of it self: yet here what was said before of the Custom continuing to 1641 is not so, for in *Henry the fifth's* Time, (which was near an hundred Years after *Edward the third*) this Law was made to confirm the Citizens Right, so passed by the making it, that it had otherwise been abused heretofore: but to blind this, which cuts the Throat of all the Pamphleteer said before, in the next place he tells us what was done in *Richard the second's* Time, which was before *Henry the fifth's*. But he brings it in as if it were after this of *Henry the fifth*, to cut off, I suppose, the Force of this good Act of Common Council, just before recited: but if it had been after *Henry the fifth*, as it is not, it helps not the Business at all, for it saith, *When the Commons have agreed upon a Person they shall present to be Sheriff, they shall present him to the Mayor and Aldermen*: which is far from invelling any Right in the Mayor to chuse him, or to meddle with the Choice, or to adjourn the Pole, as is this Year done. Certainly the Mayor and his Brethren would take it to be a Riot indeed if the Sheriffs or the Commoners should come into their Court, and adjourn them whether they would or no; yet with as much Right may it be done, as the Mayor adjourned the Common Hall on Midsummer Day: which appears thus, besides what hath been said; that is, The City of London is an ancient County, and the Sheriffwick is of Fee confirmed by Acts of Parliaments in Abundance; the Sheriffs hold Courts by the same Power as the County Courts are held; they have the *posse Comitatis*; And as the Justices in each County have not to do with the County Court, otherwise than as Fellow-freeholders: nor can they either adjourn the Court, or command the Sheriff to adjourn; no more hath my Lord Mayor to do with the Court; For the Court once called, is to finish the Work of the County, and they who are the Freeholders in a legal way, have only Power to adjourn themselves with the Sheriffs, who are in the nature of Stewards, or Chief of the Court, to see fair play, and govern the Pole: and our Court of Common Hall is in nature of the *Oyld Folke Moote*. And all the Abettors of this Innovation cannot shew any such President as hath been acted this Year, in adjourning the Pole by the Mayor. And as for the Act of Common Council the Pamphlet mentions in the nineteenth Year of *Henry the eighth*, about the ancient Prerogative of the Mayor, and of the thirteenth of *Queen Elizabeth*, and the seventh of *Charles the first*: It is not material if they had five times as many more, unless they can shew either an Act of Parliament, to confirm those Acts and Customes since their being made, or the same proved by the

Char-

Charter, otherwise they are of no value, because they are both inconsistent, and directly opposite to the Charter it self, which saith, The Sheriffs shall be chosen by the Citizens, from amongst themselves; nor can those pretended By-Acts, if any such there be, overthrow the Grants by Charter, confirmed by several Acts of Parliament, and used time out of mind. And further, if it should be allowed, that By-Laws could overthrow any part of the Charter, it might by the same Rule overthrow the whole, which would be a strange Assertion: And the Lord Mayor, nor any other Person, that stands up for such By-Laws, cannot shew any Act of Parliament to confirm them, or the City-Charters, since *Henry the Eighth's Time*.

And for the Lord Mayor's Prerogative, mentioned in the Act of Common Council, in the *19th Year of Henry the Eighth*, that can as little help the matter as any thing else: For unless his Lordship can shew a prior Right, which I take to be the true meaning of the word *Prerogative*, to chuse Sheriffs, and to adjourn County-Courts, or Ffolk-Moots, further than all the Sheriffs of *England* have for their Power, I cannot imagine what his Prerogative, found out but in *Henry the Eighth's Time*, will do him good, to justify the Choice of a Sheriff, or to adjourn the Pole. And as for the usual Proclamation that begins the Common-Hall, which the Pamphlet tells us of, in declaring that they are summoned to confirm and chuse Sheriffs, I know not if it be so or not, nor is it material what a Crier saith; our Right is upon Record, and *litteris scriptis manet*. And besides, if such Proclamation be, it is contrary to the Precept that brings them thither to chuse, for that saith otherwise; and the Prerogative of the Precept seems to be better grounded than the Prerogative of the Proclamation: But the Pamphleteer may know, that it is in the Power of the Ffolk-Moote, or Common-Hall, to meet on the Day of Election, without any Precept at all. And as for the giving Bond, before the Common-Hall chuse them, to hold Sheriffs, seems incoherent to it self, if it hath been so ever since *Queen Elizabeth's Time*, which I believe cannot be proved, that scarce ever it was done before this Year; but if that should be so, how that will any ways alter the Case, I cannot see. If Men will be so forward, to do a thing inconsistent with common Sense; for all Men know, that no Man can be a Sheriff, till the Common-Hall do confirm him; and why a Man should give Bond to hold Sheriff, before he is confirmed, I believe, was never coveted but by *Mr. North*, or our Gazetteer, who exerted his Prerogative, and named him Sheriff Elect, a long time before the Day of Election came.

But

But to put it out of all doubt, that it is impossible for any to be Sheriffs of London, but them that are chosen by the Common-Hall, and Citizens of London; and that is, first from the Words of the Charter, and the Reason of the Thing, why it cannot be done by any other Power.

The Charters of King Henry the First, and the Charters of King John, before *Magna Charta*, grant in these Words, viz. *Know ye, That We have granted; and by this our present Writing confirmed, to Our Citizens of London, the Sheriffrick of London and Middlesex, with all the Customs and Things to the Sheriffrick belonging, within the City and without, by Land and by Water, to them and their Heirs, for Us and Our Heirs, paying therefore 300 l. of blank Sterling-Money, &c. And further, We have granted to the said Citizens of London, that they amongst themselves may make Sheriffs whom they will, [and may amove them when they will] (Mark that !) And they shall present to the Justices of Our Exchequer, of these Things which to the Sheriffrick appertain, whereof they ought to answer Us : And unless they shall sufficiently answer Us, and satisfy, the Citizens shall answer and satisfy Us the Amercements and Farm, &c. (Observe that !)*

Now this is the Law; and the Pterogative of every Citizen of London, far beyond the Mayor's Pterogative, or indeed before there was a Mayor of London; from whence ought to be considered three things.

First; It appears plain, the Sheriffs are a free Election of the Citizens, as is above shewn; and not only so, but the Sheriffs so chosen, the Citizens have power, upon any Mis-behaviour, to amove them at their pleasure: So are the Words, *May amove them when they will*. If so, then shall my Lord Mayor come and say, Gentlemen, I have chose a Sheriff, he shall hold whether you will or no; and you shall not amove him at your pleasure, for I have chosen him, and not you. Would not this be a prodigious Piece of Nonsense, that tho we can remove our Sheriffs we chose our selves at pleasure, by virtue of the Charter, yet we shall not amove my Lord Mayor's Sheriff at pleasure, but must be forced to continue him in, whether we will or no, because he hath been drunk to by the Mayor? Certainly no Man will hold this Principle; nor will any Man say, That it is true, you may remove your Sheriffs, when they are in, at your pleasure; but you shall be forced to take him to be your Sheriff at first, that is put upon you by the Lord Mayor. This would be as strange as the rest, that we shall have power to remove, but not to reject.

But in the next place, the Charters say, The Sheriffs shall answer the King of all Defaults in the Exchequer for the Sherifswicks; and if the Sheriffs be not able to make the King satisfaction, the Citizens shall. If this be the Law, as no Man can deny but it is, then in what a sad Condition are the Citizens of London, when every individual Man is liable to make good the Damage that comes to the King, by default or neglect of the Sheriffs, and yet those very Sheriffs shall be imposed on them, be they good or bad? This were a sure way to undo the whole City, or at least such Men in it as are most eminent: For if the Mayor heretofore, or in Time to come, should prove but a Knave, and he chuse a Person to be a Sheriff, like himself, to do Mischief, in what a Condition then is the City? even liable to be undone, and no Redress can be had. This Evil would be ten times worse than if we had no Sheriffs at all of our own Election; for instead of being in a better Condition, (as we are now by our chusing our own Sheriffs,) than other Places, we should be in a far worse Condition than the other Counties, whose Sheriffs are now, since the Statute of *Lincoln*, elected by the Chancellor, and Barons of the Exchequer; for those Sheriffs so chosen in the Country, the Country is not liable for their Misdemeanors or Insufficiencies, which we in *London* are. But these Things, and these Proceedings, which have happened this Year, we must not believe that our present Lord-Mayor, or any Man that pretends to Common-Sence and Honesty, is guilty of, except misled by pernicious Counsel, and that they will not proceed in their Error any longer: I shall therefore add no more, but give you this Caution —

Errores tempestivè corrigantur, optimi vero sunt Errores breves.

F I N I S.

LONDON, Printed for E. Smith. 1682.

*as very a Rogue
as y^e Author.*